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C O N F I D E N T I A L ROME 003381

SIPDIS

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TAGS: [IT](#) [MW](#) [PGOV](#) [PREL](#) [SR](#) [EUN](#)

SUBJECT: ONTENEGRO: POSSIBLE DJUKANOVIC INDICTMENT

REF: . BELGRADE 1650

[B](#). BELGRADE 1592

[C](#). 2 ROME 2729

CLASSIFIED BY: A/POLITICAL MINISTERCOUNSELOR GARY ROBBINS, REASONS 1.5
(B) AND (D)

[1](#)1. (U) ITALIAN PRESS REPORTING OF THE POSSIBLE INDICTMENT OF MONTENEGRO'S PM DJUKANOVIC FOR CIGARETTE SMUGGLING HAS BEEN MUCH LESS EXTENSIVE THAN THAT IN SERBIA-MONTENEGRO. THE INITIAL PRESS REPORTS JUNE 30 HAVE NOT RECEIVED ANY FOLLOW-UP HERE IN ITALY. THIS IS IN SHARP CONTRAST TO THE SITUATION REPORTED IN REF C, WHEN A DIFFERENT PROSECUTOR (IN BARI) LEAKED THE NEWS THAT HE WAS CONSIDERING AN INDICTMENT ON SIMILAR CHARGES, AND THE STORY DRAGGED ON FOR WEEKS.

[1](#)2. (SBU) NO NEWS IS GOOD NEWS FOR PETAR PAVIC, CHARGE OF THE EMBASSY OF SERBIA AND MONTENEGRO (AMB. MIODRAG LEKIC, A MONTENEGRIN BUT NO FRIEND OF DJUKANOVIC, ENDED HIS TOUR IN JUNE). PAVIC HAS BEEN DREADING THE USUALLY PERSISTENT QUESTIONING OF THE ITALIAN PRESS, BUT THUS FAR HAS NOT BEEN APPROACHED BY ANYONE. THE LONG-TIME MONTENEGRIN REPRESENTATIVE IN ROME, LJUBOMIR PEROVIC, HAS BEEN MORE ACTIVE, GIVING INTERVIEWS TO MONTENEGRIN RADIO AND OTHERS. PEROVIC TOLD POL MC THAT HE CAN'T BELIEVE THE CHARGES OF RECENT (SINCE 2001) CIGARETTE SMUGGLING COULD BE VALID, AS NO ITALIAN OFFICIAL HAS RAISED THE ISSUE WITH HIM SINCE THAT TIME. CLEARLY FRUSTRATED THAT HE DOES NOT HAVE THE SAME CONTACTS IN NAPLES THAT HE HAD IN BARI (WHERE HE WAS YUGOSLAV CG SEVERAL YEARS), PEROVIC IS FOCUSING MORE ON A BLANKET DENIAL OF THE CHARGES THAN IN ENGAGING (AS HE DID IN LAST YEAR'S CASE) ON SPECULATION ABOUT POLITICAL CONSPIRACIES.

[1](#)3. (C) UK DCM TOLD EMBASSY THAT THE ITALIAN AMBASSADOR IN BELGRADE HAD TOLD EU COLLEAGUES THAT THERE WAS IN FACT CONCRETE EVIDENCE OF DJUKANOVIC'S AWARENESS OR INVOLVEMENT IN RECENT SMUGGLING ACTIVITIES. (PEROVIC HAD HEARD THE SAME THING AND SOUGHT TO CONVINCE POL MC THAT THE ITALIAN AMBASSADOR COULDN'T POSSIBLY HAVE SUCH DOCUMENTS). THE DIRECTOR OF THE MFA'S BALKANS OFFICE, FERNANDO GENTILINI, CONFIRMED THAT THE POTENTIAL CHARGES IN NAPLES ARE MORE RECENT AND MORE SERIOUS THAN THOSE INVESTIGATED LAST YEAR BY THE BARI PROSECUTOR.

[1](#)4. (C) GENTILINI ALSO TOLD POLOFF ON JULY 11 THAT THE MFA HAD RECEIVED A REQUEST FROM THE PROSECUTOR IN NAPLES FOR AN OPINION AS TO WHETHER PRESIDENT DJUKANOVIC AS "HEAD OF GOVERNMENT," WOULD BE IMMUNE FROM PROSECUTION IN RELATION TO REFTTEL CHARGES. GENTILINI SAID THAT THE MFA WAS WORKING ON AN ANSWER "AT THE HIGHEST LEVELS." THE ANSWER WOULD BE NEITHER SIMPLE, NOR "BLACK AND WHITE." THE PROSECUTOR GAVE NO DEADLINE TO RECEIVE THE ANSWER; GENTILINI SEES AS A POSITIVE SIGN THE FACT THAT THE PROSECUTOR ASKED AT ALL - HE WAS NOT OBLIGED TO. ITALY HAS INFORMED ITS EU PARTNERS OF THIS DEVELOPMENT (GENTILINI REQUESTED THAT WE NOT SHARE WITH ANYONE THE FACT THAT ITALY HAD INFORMED ITS EU PARTNERS. IT COULD BE A PROBLEM FOR THE MFA IF SUCH INFORMATION GOT BACK TO THE PROSECUTOR.) IF AN INDICTMENT/ARREST WARRANT IS ISSUED, WE NEED TO COORDINATE CLOSELY ON A WAY AHEAD, GENTILINI CONCLUDED. AS OF JULY 24 THE MFA HAD NOT COMMUNICATED ITS DECISION TO NAPLES, ACCORDING TO GENTILINI.

[1](#)5. (C) COMMENT: AS WE NOTED LAST YEAR, THE ITALIAN GOVERNMENT DOES NOT HAVE THE AUTHORITY TO INITIATE, DIRECT OR QUASH INDICTMENTS, WHETHER AIMED AT ITALIAN OR FOREIGN PERSONS, GOVERNMENT OFFICIALS OR PRIVATE INDIVIDUALS. THIS POWER RESIDES WITH THE FULLY INDEPENDENT ITALIAN JUDICIARY. IT IS UNUSUAL IN THIS CASE THAT THE PROSECUTOR ASKED THE MFA FOR AN OPINION ON WHETHER DJUKANOVIC COULD BE INDICTED. IN OUR OPINION, AND THAT OF ITALIAN AND OTHER DIPLOMATS WITH WHOM WE HAVE DISCUSSED THE CASE, DJUKANOVIC'S CURRENT POSITION DOES NOT AFFORD HIM ANY IMMUNITY UNDER ITALIAN OR INTERNATIONAL LAW. HOWEVER, IT IS POSSIBLE THAT THE PROSECUTOR (FOR WHATEVER REASON) MAY BE SEEKING AN EXCUSE NOT TO PROCEED WITH THE INDICTMENT. GIVEN THE PROBLEMS BOTH THE PROSECUTOR AND THE ITALIAN MFA HAD TO FACE AFTER THE 1999 INDICTMENT OF THEN MONTENEGRIN FM PEROVIC, IT WOULD NOT SURPRISE US IF BOTH INSTITUTIONS WOULD PREFER TO AVOID A SIMILAR, BUT WORSE, HEADACHE. OF COURSE, NO FACTS ABOUT THE ITALIAN JUSTICE SYSTEM WILL PREVENT DJUKANOVIC AND SUPPORTERS FROM TAKING THE MORE APPEALING COURSE: SEEKING TO CONVINCE EVERYONE (INCLUDING THEMSELVES) THAT THIS IS JUST A POLITICAL CONSPIRACY DESIGNED TO PRESSURE HIM ON INDEPENDENCE OR OTHER

ISSUES. END COMMENT.
SEMBLER

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